



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,578	09/23/2003	Bernd Klitsch	4452-571	3050

27799 7590 08/03/2004

COHEN, PONTANI, LIEBERMAN & PAVANE
551 FIFTH AVENUE
SUITE 1210
NEW YORK, NY 10176

EXAMINER

BUTLER, DOUGLAS C

ART UNIT	PAPER NUMBER
----------	--------------

3683

DATE MAILED: 08/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/668,578

Applicant(s)

KLITSCH ET AL.

Examiner

Douglas C. Butler

Art Unit

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ ~~Certified~~ copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Receipt is acknowledged of a copy of priority papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.
2. Applicants should file a copy of the first page indicating certification.
3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
4. Re Figures 1A and 1B, the figures should be separated.
5. Applicant and/or assignee should keep a clear line of patentable distinction between the instant claims and the claims of S.N. 10/369932 filed 02/19/2003. US 2003/0160367A1 corresponding to the indicated application is made of record.
6. Note the attached Search Report EP001403550A1, which has been considered. DE10336147A1 has also been made of record.
7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 3683

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Feller (DE019645228A1).

Applicant should note that the examiner has requested a translation of the above applied non-English reference from STIC within the USPTO and intends to attach a copy of the translation with the next office action, if available. Should applicant obtain a translation independently of the USPTO, a copy of it should be forwarded to the examiner for inclusion in the file.

10. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Roemer(US006116584).

11. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Long, Jr(3157396) in view of Raulf et al(US6286820).

The principal reference to Long, Jr(3157396) discloses the invention substantially as claimed except that support ring 39 of Long, Jr is not separate from the tube 30,38.

The secondary reference to Raulf et al (US6286820) teaches having the support ring 31 be separate.

It would have been obvious at the time the invention was made to one having ordinary skill in the art to which the invention pertains to modify the principal reference

Art Unit: 3683

to Long, Jr. to have the support centering ring separate from the tube as taught by Raulf. See MPEP 2144.04 which states that making an arrangement separate that was previously one piece would have been within the skill of an artisan in the art if desirable. In the instant application, it would have been obvious to make the parts separate should the need arise to change a broken or bent support ring without changing the entire tube/support ring.

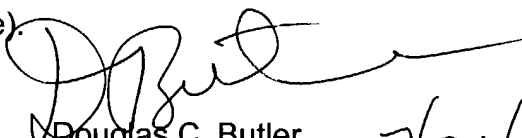
Re the shape of the support ring, it would have been obvious at the time the invention was made to one having ordinary skill in the art to which the invention pertains to modify the shape of the support ring as desired since such modifications would have involved changes within the ability of an artisan in the art in order to adapt the support ring to a particular environment and utility.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas C. Butler whose telephone number is 703-308-2575. The examiner can normally be reached on m-f 5:30 am to 2pm.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3683

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Douglas C. Butler
Primary Examiner
Art Unit 3683

7/31/04